

Business Standard

Qatar Airways' proposed investment faces policy and competition roadblocks

Other airline chiefs also against any dilution in existing ownership rules

Aneesh Phadnis & Arindam Majumder | Mumbai | New Delhi March 10, 2017 Last Updated at 23:59 IST



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[Qatar Airways](#) will face the twin test of complying with India's foreign direct investment (FDI) norms and opposition from incumbent carriers for its plan to set up an airline here.

The government formally allows 100 per cent [FDI](#) in a scheduled airline but there are policy contradictions. Sector experts and lawyers say 100 per cent [FDI](#) is applicable only where there is no investment by a foreign airline. Thus, the current rules would have to be modified.

Also, the existing rule still mandates that substantial ownership and effective control of an airline must vest with Indian nationals. The chairman and two-thirds of the board must comprise Indians.

On Wednesday, Qatar Airways' Chief Executive Officer (CEO) [Akbar Al Baker](#) announced that the airline, in partnership with Qatar Investment Authority, would set up a domestic airline in India. This would make it the first fully owned foreign airline.

According to a senior lawyer, the government will have to amend the Aircraft Rules on substantial ownership and control as explained above. Also, the government needs to clarify and define 'effective control'. "In the absence of a clarification there is no certainty on whether the appointment of Indians on two-third of board positions will suffice," he said.

[Ashish Alexander and Simone Reis, seniors at law firm Nishith Desai Associates, believe a foreign airline investing in India might have to additionally provide plans regarding governance frameworks to specify the promoter's plans, to ensure there is Indian management.](#)

"It is common for foreign investors to have various holdings or investments within the same sector. Cross-holding does not necessarily imply that the parties are not independent. However, the current [FDI](#) policy clearly specifies that the [FDI](#) limits/route specified are only applicable where there is no investment by a foreign airline. In the event that this regulation is relaxed and both foreign airlines and foreign investors are allowed to co-invest, foreign investments will have to be scrutinised to ensure the spirit of the policy (to limit foreign airlines to 49 per cent ownership) is maintained, and that a foreign airline does not indirectly gain effective control over a domestic airline," Alexander and Reis said.

According to Amber Dubey, partner at consultancy KPMG, there is no reason why 100 per

cent [FDI](#) in a non-strategic sector like aviation cannot be allowed on a reciprocal basis. Doing so would help connect India to the world in a bigger way.

Entrenched carriers have been opposed to any dilution of [FDI](#) rules. According to sources, SpiceJet CEO Ajay Singh and Jet Airways CEO [Amit Agarwal](#) met Civil Aviation Secretary Rajiv Nayan Choubey to reiterate this. The Federation of Indian Airlines (FIA) has cited international examples, saying no country in the world allows its airlines to be owned by foreign nationals.

“We should be protective about our own carriers. India, I think, is the most liberal in granting bilateral rights, which harms its own airlines,” says an executive of an FIA airline.